

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARRYL TURNER,

Defendant-Appellant.

UNPUBLISHED

May 2, 2006

No. 260545

Wayne Circuit Court

LC No. 04-010059-01

Before: White, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

Defendant appeals by right his bench trial conviction for attempted receiving or concealing stolen property, MCL 750.535(3)(a). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The offense involved a new furnace that had been removed from a home under construction. Defendant and Victor Young were observed pushing the furnace down the street on a wooden cart. The parties stipulated that the furnace came from the home under construction, that no one had permission to remove it, and that it was valued at over \$1,000. Defendant's sole issue on appeal concerns whether he and his co-defendant knew or should have known the furnace was stolen when they acquired it.

Defendant maintains that the prosecution presented insufficient evidence to support his conviction by failing to establish his knowledge that the furnace was stolen. We disagree. In sufficiency of the evidence claims, we review the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002). The prosecution need not negate every reasonable theory of innocence, but must only prove its own theory beyond a reasonable doubt in the face of whatever contradictory evidence is presented. *People v Carson*, 189 Mich App 268, 269; 471 NW2d 655 (1991). Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime, including intent. *People v Lee*, 243 Mich App 163, 167-168; 622 NW2d 71 (2000); *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998). "[B]ecause of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient." *Fetterley*, *supra* at 518.

To establish the offense of receiving or concealing stolen property worth at least \$1,000 but less than \$20,000, the prosecutor must prove: (1) that the property was stolen; (2) the value of the property; (3) the receiving, possession, or concealment of such property by the defendant with the knowledge that the property had been stolen; (4) the identity of the property as being that previously stolen; and (5) the guilty constructive or actual knowledge of the defendant that the property received or concealed had been stolen. MCL 750.535(3)(a); *People v Quinn*, 219 Mich App 571, 574; 557 NW2d 151 (1996). The crime of receiving or concealing stolen property requires knowledge on the part of the defendant that the property was stolen; however, the offense is not a specific intent crime. *People v Ainsworth*, 197 Mich App 321, 324-325; 495 NW2d 177 (1992). Factors such as the defendant's possession of the property shortly after it was stolen, change in the condition of the stolen article, and a purchase price out of line with the article's value are among the factors that can support an inference that the defendant knew that the property was stolen. *People v Westerfield*, 71 Mich App 618, 622; 248 NW2d 641 (1976).

Here, the prosecution produced sufficient circumstantial evidence to support the trial court's conclusion that defendant knew, actually or constructively, that the furnace was stolen. Defendant and Young were seen transporting the stolen property close to the area where the theft occurred. Young admitted that the furnace was found on residential property near an area of new construction and that the furnace looked new. The officer who stopped the pair also described the furnace as brand new. When Young questioned defendant as to whether the furnace looked too good to be true, defendant replied that the fact that wires leading to the furnace had been cut meant that the furnace was probably damaged and had been thrown away. However, this evidence of forcible removal would seem more in line with a theft than a furnace upgrade.

We find that the prosecutor presented sufficient evidence to allow a rational trier of fact to find that the essential elements of the offense were proven beyond a reasonable doubt.

Affirmed.

/s/ Helene N. White
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot